

CENTRAL INTELLIGENCE AGENCY

Approved For Release 2002/06/05 : CIA-RDP77-00389R000100070038-8

13 February 1973

The Honorable John S. D. Eisenhower
Chairman, Interagency Classification
Review Committee
The White House
Washington, D. C.

Dear John:

I attach a copy of my comments of this date on the report forms and reporting requirements circulated most recently by Dick Tufaro's memorandum of 22 January. As you will see from my memorandum to him, the reports raise a number of fundamental matters which, in my mind, require careful Committee consideration. Briefly, they are:

a. The reports should require only information which the Committee decides it needs for agreed upon purposes. In requiring information we must be aware that there is a cost in producing it and we should determine what we want it for. This is particularly important insofar as we levy requirements on departments not represented on ICRC. In devising the reports we should be prepared to defend to any department any requirement we impose and we should consider now our answer to an inquiry a year from now, or at another later date, as to the use we made of the information we required. The Committee has never considered these matters.

b. It seems quite inappropriate to furnish to ICRC the names of employees who commit classification abuses or unauthorized disclosures. This is particularly important since, under the proposals as circulated, the public will know that the names have been reported to ICRC and it might be that a request under the Freedom of Information Act would require that the report be furnished a requester. Each department head is responsible for the performance and discipline of his subordinates, and indeed the Order requires him to discipline his employees. I am not objecting here to reports which would show the extent to which the department head exercises

this responsibility, which I believe the Order and Directive contemplate, but I think it unfair and irresponsible for department heads to report names to another body. The thrust of the Directive is that ICRC will oversee performance by departments and department heads; it does not contemplate ICRC authority over employees.

c. Related to the foregoing, the tenor of some of the reports (Forms 322 and 323) seems to contemplate that ICRC will substitute itself for a department, or second-guess it, on individual incidents. Quite to the contrary, the Committee is not in a position to determine the identity of one who made an unauthorized disclosure or to determine the significance of such disclosure to national security, or to deal with that significance, whatever it might be. The departments have the facilities, the manpower, background, experience and sophistication to make those decisions and to advise higher officials, as appropriate, and to take corrective and preventive actions. I believe the Order and the Directive intend no such usurpation. Reports in these areas (classification abuses and unauthorized disclosures) should be statistical only.

d. The publication of these report requirements in the Federal Register is not required and seems highly undesirable. See subparagraph b. above and my comments at paragraph 9 of page 7 of my memorandum to Dick Tufaro.

To my mind, reporting requirements should not be levied in their present form. I suggest that these requirements and the issues they raise be placed on the agenda of the Committee for consideration at an early date. The Committee members of course have had the opportunity to comment on the draft report forms and certain revisions but that falls short of Committee consideration, exchange of views, and decisions.

The Directive, in particular Section X.C., calls for certain reports. Most of the reports involved here concern the areas in which that subsection requires reports. But the Directive does not specify the details, the form, or the information which are to be included. It is appropriate, and indeed, necessary for the Committee to supply these requirements. It would be appropriate for the Committee to address itself to these reporting requirements.

I am writing the other Committee members to this effect also, a copy attached hereto. I am also furnishing Mr. Tufaro with a copy of this memorandum.

Sincerely,



Lawrence R. Houston
General Counsel

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Attachments

cc: SA/ExDir-Compt/IC